Supreme Court, U.S.
FILED

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No.

IN THE

Supreme Court of the United States

ANNARE L. LOUBSER,
Petitioner

v.

ROBERT W. THACKER
REX W. KEPNER
Respondents

On Petition For Writ Of Certiorari
To The United States Seventh Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI

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May 10,2006

QUESTIONS PRESENTED

Whether State Judges in small rural towns who deliberately and intentionally agree to abandon impartiality, conduct informal partial judicial proceedings and engage in extra-judicial investigative functions, to deprive a litigant of foreign national origin of their property and livelihood, should be granted absolute judicial immunity form civil damages for deliberately and intentionally violating a "clearly established" due process right to a fair trial in an impartial tribunal?"

PARTIES TO PROCEEDING

Petitioner, Annaré L. Loubser referred to as Loubser, was plaintiff in the district court and appellant in the court of appeals. Respondent, Robert W. Thacker referred to as Thacker and Rex W. Kepner referred to as Kepner, defendants in the district court and appellee's in the court of appeals. The other parties listed in (Pet. App. 15) were appellee's in the court of appeals, but are not respondents in this petition.

DISCLOSURE STATEMENT

Annaré I. Loubser, Petitioner, Pro Se hereby discloses Pursuant to Rule 29.6 she owns a corporation in Indiana of which she is the sole owner and there is no parent company and it is not publicly held.

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OPINIONS BELOW

The opinion of the Court of Appeals for the Seventh Circuit is reported at 2006 WL 549011,2(7th Cir. (C.A.7(Ind.), 2006). And attached in (Pet. App 1-14) The opinion of the district court is attached (Pet App 15-20).

JURISDICTION

The judgment of the United States Court Of Appeals for the Seventh Circuit was entered on March 8, 2006. This Court's jurisdiction is invoked under 28 U.S.C.A. § 1254 (1).

CONSTITUTIONAL AND LEGAL PROVISIONS INVOLVED

U.S.C.A. Const. Amend. XIV § 1
U.S.C.A. Const. Amend. XIII§(1)
42 U.S.C.A. § 1983
42 U.S.C.A. § 1985 (3)
42 U.S.C.A. § 1994
28 U.S.C. § 1331(a)
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Code of Jud.Conduct, Canon 3(E)(1)
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STATEMENT

Petitioner Annaré L. Loubser filed a civil damages suit On October, 14, 2004, against State judge Robert W. Thacker and Rex W Kepner and the defendants listed in (Pet App. 15), in the United States District Court for the Northern District of Indiana, Hammond Division. The complaint was principally based on the conspiracy to violate Loubser's right to due process to a fair trial in an impartial tribunal and the equal protection of the law. The complaint raised the claim for conspiracy to deprive Loubser of property without due process of law which arise under federal civil rights statutes 42 USCA § 1983, 1985, 1994 and sought actual damages $1,169 850.70 and punitive damages $3, 509 552 for each count.[1]

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[1] The first two and four alleged between 2001-2004 the defendants conspired with state actors Thacker, Kepner and Babcock under color of law to deprive Loubser of her property and livelihood without the due process of law, and equal protection of law because she is from South African National Origin. Count 3 alleged that the state judges engaged in rebellion and insurrection against the authority of the Untied States and the laws thereof and giving aid and comfort thereto as prohibited by the constitution ArtXIV sec 2 and conspired and gave aid to the parties and deprived her of her property without the due process and equal protection and Loubser requested that the judges in their official capacities can not hold office in the Untied states, this was not address by Court of Appeals and is thus not able to be appealed in this court Count IV Official capacity claim against judges. was official capacity claim, barred by eleventh amendment. Count V Deliberate intent to neglect by her attorneys . Count VI. Attorney deliberate and intentional violation of oath of office The injury suffered as a result of the unconstitutional conduct was loss of liberty to live where she wants to, liberty to be free, liberty to work where and how much she wants to, loss of liberty to have kids., loss of property interest in employment, Severe mental anguish, liberty to pursue happiness, Denial of equal protection, of the laws of the United States, Loss of freedom of servitude, through treat of abuse of legal process and abuse of law, because she is form South African National Origin, deprivation of right to impartial trial Violation of her Fourteenth amendment due process, equal protection right and her Thirteenth amendment right .

Jurisdiction was asserted under 28 U.S.C. §§1331, 1343 (2004). The petitioners and other defendants moved to dismiss due to jurisdictional bars and absolute judicial immunity and failure to state a claim, witness and court reporter immunities. The district court dismissed (Pet. App. 15-20) on grounds of *Rooker-Fledman* and domestic relations exception to jurisdiction. The district court argued that Loubser's independent constitutional claim was barred by *Rooker-Fledman* , *Rooker v. Fidelity Trust Co.*,263 U.S.413(1923); *Court of Appeals v. Feldman*, 460 U.S. 462(1983); and that Loubser's independent constitutional claim arisen out of a state court divorce proceeding was barred by the domestic relations exception. *Ankenbrandt v. Richards,* 504 U.S.689, 703 (1992). Loubser appealed and a unanimous panel of the court of appeals affirmed the district court's dismissal of the judges based on absolute judicial immunity, but a divided panel vacated the district court's dismissal of the Loubser's independent constitutional claim for erroneous dismissal under the *Rooker-Fledman* doctrine and the domestic relations exception and held that Loubser stated a claim for conspiracy " to deprive the plaintiff of her property and livelihood by corrupting her divorce proceedings" Judge Sykes's dissenting regarding vacating and remanding the rest of the defendants for their conspiracy to deprive Loubser of property and livelihood by corrupting the state divorce proceedings and *Rooker-Feldman* and 'domestic relations exception and statement of claim are not part of this petition. The majority opinion by judge Posner determined that absolute judicial immunity protect the state court judges from damages for their less formal legal proceedings. And asserted that legal proceedings of 'less formality" are acceptable under the constitution to litigants in small rural communities. (Pet. App. 3) opinion. The court argues (Pet. App. 5) that claims against the judges are barred because Loubser is complaining about their judicial conduct and the judges have absolute immunity from

such damages claims and cited absolutely immune for his judicial acts and quoted, *John v. Barron* 897 F.2d 1387, 1391-92 (C.A.7 (Wis.),1990), *J.B. v. Washington County* 127 F.3d 919, 925 (C.A.10 (Utah),1997). (Pet. App. 5) Judicial immunity was granted to the judges by a unanimous decision (Pet. App.7) United States Court of Appeals Seventh Circuit, applying granting absolute judicial immunity based on the judicial act criteria and failed to apply the "expectation of the parties "exception to judicial immunity, for "engaging in the kind of conduct not expected of a judge under the Indiana statutes governing the jurisdiction of its courts" *Stump v. Sparkman* 435 U.S. 349, 363, 98 S.Ct. 1099, 1108 (U.S.Ind.,1978). Therefore this Court's authority is called upon.

REASONS FOR GRANTING THE WRIT

The United States Court of Appeals Seventh Circuit decision conflicts with the Ninth Circuit *Ashelman v. Pope* 769 F.2d 1360 (C.A.9 (Ariz.),1985), on the same important federal question. The Untied States Court of Appeals Seventh Circuit has decided and important question of federal law in conflict with this Court's *Stump v. Sparkman* 435 U.S. 349, 363, 98 S.Ct. 1099, 1108 (U.S.Ind.,1978) regarding the "expectations of the parties" exception to judicial immunity in *Stump v. Sparkman* 435 U.S. 349, 363, 98 S.Ct. 1099, 1108 (U.S.Ind.,1978). This Court is called upon to determine if this case falls within that exception and should this exception deny the judges absolute judicial immunity. This Court held that a " judge may be found criminally liable for violation of civil rights even though the judge may be immune from damages under the civil

statute." *Dennis v. Sparks* 449 U.S. 24, 101 S.Ct. 183 (U.S.,1980) This case differs from *Dennis* where lack of impartiality based on racial profiling is the graveman of this case." Fourteenth Amendment prohibits state itself from discriminating because of race" *Adickes v. S. H. Kress & Co.* 398 U.S. 144, 90 S.Ct.1598 (U.S.N.Y. 1970). State Judges" engaging in the kind of conduct not expected of a judge under the Indiana statutes governing the jurisdiction of its courts" *Stump v. Sparkman* 435 U.S. 349, 363, 98 S.Ct. 1099, 1108 (U.S.Ind.,1978) should not be granted absolute judicial immunity for violating the "expectation of the parties" of impartial tribunal. The Ninth circuits denial of judicial and prosecutor immunity *Ashelman v. Pope* 769 F.2d 1360 (C.A.9 (Ariz.),1985 overruled this Court's decision in *Dennis* 449 U.S. 24, 101 S.Ct. 183 (U.S. 1980) five years later. The *Stump* holding of this Court, should deny these judges absolute judicial immunity to guarantee that litigants are entitled to due process in an impartial tribunal and unconstitutional conduct such as hugging a witness(Pet. App. 23-26, 36), independent investigation of facts outside of the court room(Pet. App. 37) and using it to base decision on in the courtroom; joking with witness on the witness stand about their golf game and be physically touched. (Pet App 21-22, 32) by a relative (Pet. App 33) who was coached by litigant's attorney (Pet. App. 34-35) and representative of a litigant and laughing with a litigant saying" goodbye judge wudgee I will see you around town" (Pet . App 23-26, 36, 38) allowing the litigant to walk around in the courtroom a joke around with this women (Pet App. 21-22, 23-26, 36) who physically touched the judge and who is identified in a litigants legal bill (Pet. App. 34-35) being coached by the litigants attorney and identified as